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**IN THE
COURT OF APPEALS OF INDIANA**

[illegible]

No. 20A03-0707-JV-350

The Honorable Terry C. Shewmaker, Judge
The Honorable Deborah A. Domine, Magistrate
Cause No. 20C01-0706-JC-51

VAIDIK, Judge

Case Summary

Elika Jackson and Carl Jackson, Sr. (individually referred to as “Mother” and “Father” and collectively referred to as “Appellants”) appeal from the juvenile court’s determination that their minor child, M.J., is a Child in Need of Services (“CHINS”). Specifically, Mother and Father claim that the evidence is insufficient to support the CHINS determination. Concluding that the evidence is sufficient to support the CHINS determination, we affirm the judgment of the juvenile court.

Facts and Procedural History

Mother and Father are the biological parents of M.J., born May 1, 2007. Mother and Father also have five other children: (1) Ca.J. III, born July 11, 1999; (2) C’l.J., born December 1, 2000; (3) Ca.J., born October 12, 2001; (4) A.J., born October 22, 2002; and (5) Ch.J., born April 19, 2005. Mother has another child, V.D., born June 29, 1991, and Father is custodian to V.D. Mother and Father have maintained a relationship for approximately eight and one-half years and were married in November 2006.

When M.J. was approximately four weeks old the Elkhart County Department of Child Services (“ECDCS”) filed a request for emergency custody of him. The affidavit filed in support of emergency custody acknowledged that M.J.’s brothers and sisters had been removed from the home, placed in foster care, and determined to be CHINS.¹ Specifically, the affidavit referenced Father’s whipping of A.J. with a belt and a Rapid Family Assessment report concluding that “given [A.J.’s] injuries, it seemed to follow

¹ In *In re V.D.*, No. 20A03-0706-JV-295 (Ind. Ct. App. Feb. 14, 2008), we concluded that sufficient evidence existed to support the juvenile court’s determination that M.J.’s brothers and sisters are CHINS.

that the other children are at high risk of harm for injury as well even though their behaviors may not be to the extent of [A.J.'s] [behaviors]." Appellants' App. p. 9.

Thereafter, M.J. was preliminarily placed in protective custody, and a protective custody hearing was scheduled. At the protective custody hearing, a representative from the ECDCS testified that the department had concerns regarding the safety of M.J. because, as an infant, he was more susceptible to injuries "should [his] . . . parents become out of control" *Id.* at 48-49. Additionally, the ECDCS expressed concern because Mother and Father had not done anything to enhance their parenting abilities since the incidents with the older children. As a result, the ECDCS believed "that the situation, or the environment that existed for the other children, still exist[s] for [M.J.]." *Id.* at 49. At the conclusion of the protective custody hearing, the court found

probable cause to believe [M.J.] is a child in need of service. I find that, in particular, based on substantial abuse against siblings, which indicate a risk to a baby. Injury to a baby is going to cause far more severe damage and, therefore, immediate action is necessary. I'm going to order that he be placed in protective custody.

Id. at 50. Mother and Father denied that M.J. was a CHINS, and the court held an evidentiary hearing on the CHINS petition. The juvenile court found M.J. to be a CHINS and stated the following:

2. After a two day Fact-finding hearing, the six siblings of [M.J.] were found to be CHINS on May 25, 2007. At that time, the Court found the allegations of the CHINS Petition were proven by the requisite burden of proof.
3. The Petition which the Court found had been proven alleged that "[O]n January 16, 2007, [V.D.], [Ca.J.III], [Ca.J.], [C'l.J.], [A.J.], and [Ch.J.] lived in the Elkhart County home of [Mother] and [Father]. While in the family home, [A.J.] sustained bruising and lacerations to his back and arms. [A.J.] reported that his father hit [A.J.] with a belt . . . a rapid

family assessment for the family, stated that “[g]iven [A.J.’s] injuries, it seemed to follow that the other children are at high risk of harm for injury as well even though their behaviors may not be to the extent of [A.J.’s].” In other words, the Court found that all of the Jackson siblings were at risk of injury in the family home.

4. Since the May 25, 2007, finding of CHINS the parents have failed to become involved in services which were intended to diminish that risk of harm. Father has not been involved in anger management, parenting classes, nor followed the recommendations of the rapid family assessment. Mother has been involved in no services. There is one exception, after months without visiting their children, parents are now involved in supervised visits with the children.
5. Father has stated in front of the children that he refuses to participate in Court ordered services.
6. The prior finding of CHINS combined with parents['] failure to participate in services [. . .] support[s] [. . .] the conclusion today that [M.J.] is a CHINS [. . .] as defined by Ind. Code § 31-34-1-1.

Appellants’ App. p. 9-10. At the conclusion of the dispositional hearing, the court ordered M.J. to remain in foster care. Mother and Father now appeal.

Discussion and Decision

Appellants raise one issue on appeal: Whether the evidence is sufficient to support the trial court’s determination that M.J. is a CHINS. The ECDCS has the burden of proving by a preponderance of the evidence that a child is a CHINS. *See* Ind. Code § 31-34-12-3; *In re M.W.*, 869 N.E.2d 1267, 1270 (Ind. Ct. App. 2007). When determining whether sufficient evidence exists in support of a CHINS determination, we consider only the evidence favorable to the judgment and the reasonable inferences raised by that evidence. *Id.* This Court will not reweigh evidence or judge witnesses’ credibility. *Id.*

The juvenile court found that M.J. was a CHINS pursuant to Indiana Code § 31-34-1-1, which provides as follows:

A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child's physical or mental condition is seriously impaired or seriously endangered as a result of the inability, refusal, or neglect of the child's parent, guardian, or custodian to supply the child with necessary food, clothing, shelter, medical care, education, or supervision; and

(2) the child needs care, treatment or rehabilitation that the child:

(A) is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

The CHINS statute, however, does not require that a court wait until a tragedy occurs to intervene. *Roark v. Roark*, 551 N.E.2d 865, 872 (Ind. Ct. App. 1990). Rather, a child is a CHINS when he or she is endangered by parental action or inaction. *Id.* The purpose of a CHINS adjudication is not to punish the parents, but to protect the children. *In re A.I.*, 825 N.E.2d 798, 805 (Ind. Ct. App. 2005), *trans. denied*.

Appellants maintain that “[t]he evidence was insufficient, both quantitatively and qualitatively, to support the trial court’s decision that M.J. was a CHINS.” Appellants’ Br. p. 11. We disagree. The evidence supports the allegation that Father and Mother abused their children. According to the evidence presented at the hearing, Father beat A.J. with a belt and his hand, leaving bruises on his upper back and arms. Furthermore, Varga’s Rapid Family Assessment report indicated that all the children are abused and if the children remain in Mother and Father’s home they have a significant chance of being injured. Although Mother and Father deny abusing their children, a report from the LCDCS indicates that on a previous occasion Mother struck V.D. in the head and Father struck V.D. with a belt and choked her.

Moreover, in its findings, the juvenile court concluded that Father and Mother had failed to participate in services, which were intended to diminish the risk of harm to their children. Appellants' App. p. 9. For instance, Father and Mother did not participate in anger management courses, parenting classes, or follow the recommendations from the Rapid Family Assessment report. *Id.* Father also stated "that he refused to participate in Court ordered services." *Id.* at 10. Thus, there is not much hope that M.J. will be adequately cared for without the coercive intervention of the court. Sufficient evidence exists to show that M.J.'s mental or physical condition is endangered and that he is not receiving the care from his parents that he needs. Accordingly, sufficient evidence exists to support the juvenile court's determination that M.J. is a CHINS.

Affirmed.

SHARPNACK, J., and BARNES, J., concur.